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Letter dated 14 January 2005 from the Permanent Representative of Uzbekistan to the United Nations addressed to the Secretary-General

I have the honour to inform you that the Government of the Republic of Uzbekistan continues its efforts to fully comply with the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

In this regard I would like to draw your attention to the measures undertaken by the Government of Uzbekistan during 2004 for the implementation of the recommendations of the United Nations Special Rapporteur on torture (see annex).

I would be very grateful to you if the present letter and its annex were to be circulated as a document of the fifty-ninth session of the General Assembly under agenda item 105.

(*Signed*) Alisher **Vohidov**
Permanent Representative of the Republic of Uzbekistan

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Annex to the letter dated 14 January 2005 from the Permanent Representative of Uzbekistan to the United Nations addressed to the Secretary-General

[Original: Russian]

Measures taken by the Government of Uzbekistan in 2004 to implement the recommendations of the Special Rapporteur on torture

The invitation extended to the Special Rapporteur of the Commission on Human Rights on the question of torture to visit Uzbekistan and the plan of action adopted by the Government to implement the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment demonstrate the Government's political will to outlaw and eradicate these phenomena. The Government is keeping strictly to this course.

The measures outlined in the Government plan are being implemented in full within the established time frames. The law enforcement agencies are taking decisive steps to prevent violations of citizens' rights by officers, including the use of torture. Efforts are being made in all units to create a climate in which such violations are not tolerated and perpetrators are always held to account.

On 24 February 2004 the Cabinet of Ministers decided to establish an Interdepartmental Working Group to study the situation with respect to the observance of human rights by law enforcement agencies.

The first meeting of the Interdepartmental Working Group took place on 23 March 2004.

On 12 June 2004 a second meeting of the Interdepartmental Working Group was held with the participation of representatives of all law enforcement agencies, the Ministries of Finance and Health, the Ombudsman, the National Centre for Human Rights, the Institute for Monitoring Legislation in Force attached to the Parliament and other institutions.

The Interdepartmental Working Group paid special attention to the efforts of the Central Penal Correction Department of the Ministry of Internal Affairs to safeguard human rights. It should be noted that the Department has elaborated instructions on the procedure for organizing visits to institutions of the penal correction system by representatives of the diplomatic corps, international non-governmental and local non-State, non-commercial organizations and the mass media, which are aimed at improving monitoring of the observance of the rights of detained persons.

Pursuant to the plan of action to implement the Convention against Torture, the Interdepartmental Working Group discussed the outcome of the meetings of the Coordinating Council of Law Enforcement Agencies attached to the Procurator-General's Office held on 29 May 2004 and the Central Administrative Board of the Procurator-General's Office held on 20 May 2004, at which effective measures were developed and decisions adopted to ensure the rigorous observance by law enforcement officers of international standards on human rights and freedoms.

With a view to further intensifying judicial and legal reform in Uzbekistan, in 2004 a number of additions were made to the Policy on Cooperation between the Ombudsman and the Law Enforcement and Judicial Agencies based on the recommendations of the Special Rapporteur on torture, Mr. Theo van Boven.

It was recommended, inter alia, that all courts should facilitate the work of the Ombudsman by building an atmosphere of trust and cooperation and developing mutual understanding in carrying out the common tasks of safeguarding and ensuring the observance of constitutional human rights and freedoms. In particular, it was recommended that the Ombudsman should:

- Broaden and seek new ways and means of applying existing safeguards of guaranteed freedoms in Uzbekistan by actively using the agreements on mutual cooperation concluded previously with the Constitutional Court, the Procurator-General's Office, the Council of the Federation of Trade Unions and the Centre for the Study of Human Rights and Humanitarian Law;
- Implement on a regular basis various measures relating to cooperation among judicial and extrajudicial bodies in the protection of human rights in the country's regions with the participation of different groups and sections of society;
- Take joint measures to inform the population of the reforms undertaken in the legislative branch of power and in the judicial and legal spheres;
- Actively use the capacity and experience of international organizations in the field of cooperation among judicial bodies and extrajudicial structures.

On 24 September 2004 the Plenum of the Supreme Court adopted a Decision "On certain issues with respect to the application of criminal procedural norms on the admissibility of evidence".

This Decision states that the fundamental principle of the law of criminal procedure, as set out in the Constitution, is the presumption of innocence, whereby a person is deemed innocent until his guilt is lawfully proved and established by an enforceable court judgement. The judgement may be based only on lawfully gathered evidence.

At its third meeting, held on 18 November 2004, the Interdepartmental Working Group to study the situation with respect to the observance of human rights by law enforcement agencies discussed the following matters:

- The implementation of measures to ensure monitoring of the actions of law enforcement officials with a view to outlawing torture and similar cruel treatment;
- Draft instructions for employees of the Procurator's Office on the application of article 243 of the Code of Criminal Procedure (Procedure for the use of remand in custody as a preventive measure), which requires the Procurator to question personally any suspect or accused person subjected to unlawful treatment;
- A programme to improve and strengthen professional training for law enforcement officers in the treatment of detainees, suspects, persons accused of a crime and convicted persons using international experience and technical assistance from donor countries;

- A study of practice with respect to the application of articles 985 to 991 of the Civil Code, which stipulate the procedure for payment of compensation for moral harm and material damage sustained by persons subjected to torture or similar cruel treatment;

- The preparation of a draft policy on the further development and improvement of the penal correction system of the Ministry of Internal Affairs;

- A study of the practice of State agencies in responding to recommendations for interim measures by the United Nations Human Rights Committee.

The Ministry of Internal Affairs pays special attention to the implementation of United Nations conventions and norms and principles of national legislation aimed at safeguarding and protecting human rights and freedoms.

Currently, the main areas of activity of the internal affairs agencies are as follows:

1. Reforming the arrest and transfer to law enforcement agencies of persons suspected of crimes, taking into account that a person may only be arrested on the grounds specified by law and that arrest based on supposition or on operational data alone is prohibited.

2. Ensuring that all necessary procedural measures are taken in the case of every person suspected of a crime, that is, explaining the suspect or detained person's rights in a timely fashion, ensuring that he is protected, informing close relatives of his arrest, etc.

3. Involving the public when any report of gross violations of legality or the use of torture is examined, that is, conducting so-called "independent investigations". Currently, every report is examined by the appropriate agencies and, if the facts are confirmed, specific measures are taken against the culprits.

4. Ensuring transparency in the activities of the internal affairs agencies.

5. Raising the level of legal literacy and legal awareness of officials of internal affairs agencies.

The agencies and subdivisions of the Ministry of Internal Affairs have been assigned specific tasks. Special attention is being paid to the following issues: detention of persons suspected of crimes and safeguarding of their procedural rights; determination of the status of complaints and reports by citizens of illegal acts by employees of the internal affairs agencies; testing and study of employees' knowledge of legislation and international legal standards; conduct, together with the National Public Opinion Study Centre Izhtimoy Fikr (Public Opinion), of sociological polls on the activities of the internal affairs agencies; and other issues relating to the aforementioned areas of activity.

In addition, with the assistance of the United Nations Development Programme, in 2004 the Ministry of Internal Affairs published an Uzbek-language compilation of international human rights instruments relating to the activities of law enforcement agencies, which was distributed to the Ministry's agencies and subdivisions.

The Ministry's Main Investigation Department, with the assistance of the American Association of Jurists and the Embassy of Switzerland in Uzbekistan,

prepared and issued 100,000 copies of a booklet for participants in the criminal process containing descriptions of the procedural rights provided by national legislation and international legal standards. On instructions from the Ministry's management, these booklets were distributed to all internal affairs agencies with orders that they should be given to all persons brought to internal affairs offices.

On 4 December 2004 a round table was organized jointly with the Embassy of the United States of America in Tashkent to study international experience of the functioning of the institution of habeas corpus with the participation of representatives of law enforcement structures.

On 10 December 2004 at a round table held in the country's Parliament on the theme "Human rights issues in the work of law enforcement agencies", an agreement was concluded between the Ministry of Internal Affairs and the Ombudsman of the Parliament of Uzbekistan on strengthening monitoring of the observance of human rights in the work of the internal affairs agencies.

The implementation of the plan of action is being coordinated by the Interdepartmental Working Group to study the situation with respect to the observance of human rights by law enforcement agencies. The mass media are regularly informed of the Interdepartmental Working Group's activities.

The Ministry of Internal Affairs regularly transmits information on the progress made in implementing the Government plan to the Office of the United Nations High Commissioner for Human Rights. In November 2004 the Ministry of Internal Affairs transmitted the Uzbek side's response to and comments on the letter and recommendations of the Special Rapporteur on torture, Mr. Theo van Boven, which were compiled on the basis of non-governmental sources.